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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/411,683	06/03/2000	STEPHEN K. FRASER	108.1001.02	8674

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EXAMINER

DIXON, THOMAS A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 07/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/411,683

Applicant(s)

FRASER ET AL.

Examiner

Thomas A. Dixon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 1-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 1-38 have been cancelled by preliminary amendment, paper 6, filed 4 October 1999. Claims 39-55 have been added.
2. The prior art cited in IDS papers 8 and 10 of the parent 08/928,559 have been cited. Additional prior art discovered has also been cited in the rejections below.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 39-55 are rejected under the judicially created doctrine of double patenting over claims 1-38 of U. S. Patent No. 5,995,947 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

Fraser et al (5,995,947) claims a method for processing loan applications including the steps of maintaining loan applications and their statuses at a database

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server, wherein each party to a loan can search and modify that database consistent with their role in the transaction by request to the server from a client device.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 39-51, 53, 55 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al (.5,794,207).

As per Claim 39.

Walker et al ('207) discloses:

a database of pending loan applications, said database including status information regarding said pending loan applications, said database includes a set of bids associated with each said loan application, see figure 2 (265) also column 15, line 66 – column 16, line 11;

a network interface configured to provide communications between the transaction server and at least one client computer associated with a party to one of the pending loan applications, see figure 2 (245)

a lender information generating mechanism configured to generate a loan profile for each of said loan applications, see column 17, lines 27-64;

a set of program modules each configured to cause the transaction server computer to provide one or more services to said at least one client computer, see figure 2 (230);

a role validation mechanism configured to provide access to one or more of the set of program modules responsive to said party, see column 17, lines 53-56, column 19, lines 14-31.

As per Claim 40.

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Walker et al ('207) discloses all the limitations of claim 39.

Walker et al ('207) further discloses mortgage loan applications, see column 16, line 7.

As per Claim 41.

Walker et al ('207) discloses all the limitations of claim 39.

Walker et al ('207) further discloses the set of program modules are responsive in real time to requests received from at least one client computer, see column 29, lines 7-12.

As per Claim 42.

Walker et al ('207) discloses all the limitations of claim 39.

Walker et al ('207) further discloses wherein said party is a loan originator, a loan maker a loan purchaser, a broker, loan processor, manager, prospective borrower, or loan applicant, see column 15, line 66 – column 11.

As per Claim 43.

Walker et al ('207) discloses all the limitations of claim 39.

Walker et al ('207) further discloses the set of program modules is selected from the group of a login module, a broker module, a lender module, and administration module, an external interface module, an external service module, a notification module, a database interface module, a geoserver module, a monitoring module and a system module, see column 15, lines 61-65 and column 13, lines 1-22.

As per Claim 44.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) further discloses the login module is configured to authenticate a party, see column 6, lines 59-65, column 8, line 66 – column 9, line 5 and column 10, lines 8-15.

As per Claim 45.

Walker et al ('207) discloses all the limitations of claim 44.

Walker et al ('207) further discloses the login module is configured to associate one of said broker module, said lender module or said administration module with said party, see column 10, lines 8-15 and column 23, lines 29-31.

As per Claim 46.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) further discloses the broker module is configured to handle server-side application requirements of a broker station, see column 10, lines 40-56.

As per Claim 47.

Walker et al ('207) discloses all the limitations of claim 43.

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Walker et al ('207) further discloses the lender module is configured to handle server-side application requirements of a lender station, see column 10, lines 40-56.

As per Claim 48.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) further discloses the administration module is configured to handle server-side requirements of an administration station, see column 10, lines 40-56 and column 30, line 53 – column 30, line 9.

As per Claim 49.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) further discloses the external interface is configured to convert incoming data in a first format to a second format, see column 14, lines 23-29 and column 15, line 61-65.

As per Claim 50.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) further discloses a service request mechanism configured to request data from an external service, see column 14, lines 14-29 and column 15, line 66 – column 16 line 11, and

a service reception mechanism configured to receive said data requested by the service request mechanism, see column 14, lines 14-29 and column 15, line 66 – column 16 line 11.

As per Claim 51.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) further discloses notification module is configured to handle e-mail communication with the party, see column 14, lines 14-29 and column 18, lines 27-40.

As per Claim 53.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) further discloses the server provides data responsive to a query from said party, see column 15, line 66 – column 16, line 11.

As per Claim 55.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) further discloses a system module is configured to provide a set of utility services, see column 15, lines 21-55.

Claim Rejections - 35 USC § 103

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 52, 54 are rejected under 35 U.S.C. 103(a) as being obvious over Walker et al (5,794,207) in view of Gilles et al (5,561,797).

As per Claim 52.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) further discloses a connection management mechanism, see column 12, lines 10-16 and an interface mechanism configured to interface between the set of program modules and the database, see column 12, lines 10-16.

Walker et al ('207) does not specifically disclose the connection management mechanism is configured to manage the number of simultaneous connections to said database.

Gilles et al ('797) teaches a connection management mechanism configured to manage the number of simultaneous connections to a database, see column 4, lines 30-67 for the benefit of resource management in a server environment.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the connection management mechanism of

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Walker et al ('207) to manage the number of simultaneous connections to a database as taught by Gilles et al ('797) for the benefit of resource management in a server environment.

As per Claim 54.

Walker et al ('207) discloses all the limitations of claim 43.

Walker et al ('207) does not specifically disclose a monitoring module configured to determine a resource usage and to monitor resource usage,

Gilles et al ('797) teaches a connection management mechanism configured to determine a resource usage and monitor resource usage, see column 4, lines 30-67 for the benefit of resource management in a server environment.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the connection management mechanism of Walker et al ('207) to determine resource usage and monitor resource usage as taught by Gilles et al ('797) for the benefit of resource management in a server environment.

Other Prior Art Made of Record

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prior art from the parent has been cited.

WO 01/09787 A2 to Walker is the closest foreign art which teaches loan processing on the internet.

Thinakal, "The business of Internet lending" is the closest non-patent literature which anticipates internet loan processing.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Thomas A. Dixon
Examiner
Art Unit 3629

July 16, 2002